

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4597 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1-5 No

G H CHAKRAVARTY

Versus

SECRETARY

Appearance:

MR IS SUPEHIA for Petitioner

MS. HARSHA DEVANI, AGP, for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 23/07/98

ORAL JUDGEMENT

Rule.

2. Heard learned counsel for the parties.

3. The grievance voiced by the petitioner is that he retired as Sales tax Officer on 30.4.1998 and as the departmental enquiry pending against him has not been

completed, he has been denied payment of gratuity and also finalisation of full pension. It appears that chargesheet was served on the petitioner on 13.12.1996. He made a request for supply of certain documents by letter dated 23.12.1996 but the documents were supplied as late as 15.7.1997. Mr. V.C. Vinod, Under Secretary, Finance Department has filed an affidavit and stated that the petitioner was advised by letter dated 13.5.1997 to contact the office of the Commissioner of Sales-tax and thereafter the documents were supplied on 15.7.1997. The question is whether the delay of 7 months in supplying the documents is said to be reasonable? In my view when the delinquent asked for the supply of documents he ought to have been supplied with promptitude. There is no explanation as to why a simple request for supply of the documents remained pending with the authorities for such a long time. It took more than 5 months for saying that he should contact the office of the Commissioner. Otherwise also it was the duty of the person advising to contact the office of the Commissioner to collect the documents wherever they were and to supply the same to the delinquent and to ensure that no delay is caused in departmental enquiry. Instead of asking the petitioner to contact office of the Commissioner, the said office could have also been asked to supply the document to delinquent. After supply of the documents in spite of the fact that defence was filed in September, 1997, a decision was taken to entrust the enquiry to the Special Officer as late as on 1.7.1998. There is no explanation of this further delay of 10 months. In view of this, in my view, there is delay in taking necessary steps towards holding and completion of enquiry particularly in the context, that the petitioner was due to retire from services in April, 1998. In this background, it is argued by the learned counsel for the petitioner that a direction may be given to the respondent to complete the enquiry within a period of one month. Though I have found the delay in taking necessary steps in proceeding with the departmental enquiry but at this stage it will not be proper for me to give any direction to complete the enquiry within a stipulated period. It is however expected that the enquiry is completed expeditiously keeping in view that the petitioner has retired and is awaiting finalisation of pension, payment of gratuity etc.

4 Chargesheet was served as back as in December, 1996. In 19 months only documents have been supplied and the Enquiry officer has been appointed. The agony suffered can be compensated to little extent, by directing the respondents to pay at the rate of Rs.

500/for half of the delayed period i.e. 9 months. If the enquiry is not completed within 3 months and is further delayed. he will be entitled to, in addition to pension, a sum of Rs. 1000/- per month till the departmental enquiry is completed. In such eventuality, it will be open for the State to recover the amount from officer responsible for such delay.

In view of the aforesaid, this Special Civil Application is allowed to the aforesaid extent. Rule made absolute.

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